Development (1948) Department

MS SERIES.

G.O. No. 3688.

Dated 10.7.48

[Despatch Abstract.]

ACTS and Rules - State aid to Industries-Act-
Security for loan- Personal Security from
Directors of Public Limited Concerns-
Validity- papers Recorded.

Development Department.

Extract from file bearing C.No. 29770 DII/48 Dev.

Sub: Acts and Rules- State-aid to Industries Act- Messrs. Sudarson Oil Mills Ltd. Katpadi- Application for a loan of Rs. 10,00,000/-.

Ref: From the D. I & C. No. S.A. 2657/47 dt. 8-3-48. and 19-3-1948.

2. Subject to orders a draft order is submitted for approval. It may be sent to Finance for acceptance before circulation.

C.P.G.
12-5-48.

K.G.M.
13-5-48.

Finance (EXPA)

xxx xxx

2. The draft order below may be accepted subject to the following remarks:-

(4) As the Board of Industries recommended the grant of the loan on the security of the assets of the business plus the personal security of its Directors, Development may consider whether it is not necessary to specify the latter condition in the draft as indicated in pencil.

P.N.S R.
17-5-48.

Dev. Dept.

The additions and alterations suggested by Finance at 'A' above to the draft order submitted below may be accepted.

The file may be circulated to H.M (Ind.) and H.M.(Fin.) for orders whether the draft order submitted below may issue.

C.P.G.
22-5-48.

K-G.M.
24-5-

H.M. (Ind.) H.S.R.
24.5-

H.M. (Fin.) ---- It is a public limited company, Can the directors give personal security? The directors are elected periodically. H.M. (Ind.) may kindly go into this.

Please see the minutes of H.M (Fin.) above.

Under section 10 of the State Aid to Industries Act, every loan granted under the Act should be secured by a mortgage or floating charge upon the whole of the assets of the business or enterprise and by such colla teral security, ifany, as may be required by Government. The nature of the security to be taken in the case of laarge scale industries has not been specified either in the Act or in the Rules framed thereunder although there is provision in the case of small scale and cottage industries for taking the perosnal security of the applicant or the joint security of the applicant and one or more person.

In this case, the Board of Industries has recommended the grant of the loan of 10 lakshs on the security of the assets of the business plus the personal security of the Directors of the concern. As the company is a limited concern and as the Directors ar e liable to be changed periodically it does not appear that personal security can be taken from the Directors.

Under section 9 of the Act, no loan exceeding 50% of the net value of the assets and the property of the concern offered as security should be granted. In the present case, the amount of loan to be granted is Rs.10 lakhs while the value of the assets offered as security exceeds Rs. 30 lakhs. The D,I. & C. has also stated that this is ample security for the loan applied for. In the circumstances, it does not also seem necessary to obtain the personal security of the Directors in addition to the assets offered as security.

In the circumstances stated, above, it is for orders whether the condition regarding the obtaining of a personal security from the Directors of the company in the draft order may be omitted. Finance may see before recirculation.

C.P.G.
31-5-48.

Finance (E.X.P.A.)

(Finance saw last on page 5 above)

Development may consult Legal also on the point raised by H.M. (Fin) on pages 1-2 above- Subject to this suggestio the proposal of Devt. at 'a' on p 2 above may be accepted.

Fin. may agree that the condition referred to need not be imposed in this case. The liegal point raised by H.M (Fin) may be clarified separately- as it may be important in disposing of other cases that may come up in future.

T.NS.R.
2-6-48.

True Extract:

Devt. Department.

Please see the remarks of Finance extracted above. Legal may be requested to offer their remarks on the point raised by H.M (Fin) in his minutes at 'B' on pp 1-2- above.

C.P.G.
4-6-48.

Legal Department.

In substance, personal security means a general guarantee based on the worth and credit of the individual and not related to specific property. There is no legal objection to the Directors of a company giving personal security if they choose to do so. Such security can be enforced against them even after they cease to be Directors if the intention is made clear in the instrument.

Development Dept.

Finance may see the remarks of Legal above before circulation.

C.P.G.
18-6-48.

Finance Dept.

Legal opinion on page 3 above with reference to the minute of H.M. (Fin.) on pp 1-2- above may be perused and the case may be returned to Development.

Development Dept

The file may be circulated to H.M-(Fin.) through H.M (Ind) for perusal of the remarks of Legal at NF on p 3 above with reference to his minute at 'B' on pp 1-2 above-

C.P.G.
25-6-48.

No further action is necessary in this file. For facility of future reference the papers may be recorded.

G.O. Ms. No.3688, 27-10-7-48
Asbstract,
Acts and Rules- State aid to Industries Act- Security forloan - Personal security from Directors of public limited concerns- validity- papers Recorded.

True Copy

Superintendent,
Madras Record Office.